

UNITED STATES OF AMERICA )  
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 v. ) ORDER  
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 TRACY MAURICE THOMAS )  
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In that order and on the government’s motion, the court considered whether the government’s response to defendant’s motion for judicial review of its failure to file a Rule 35(b) motion should be filed under seal. Defendant opposed the sealing of any Rule 35(b)-related documents, arguing there are no “unusual circumstances in this case” and “this case is a run-of-the-mill, typical and average case: [defendant] provided substantial assistance to the Government, like thousands of other federal defendants do each year.” (DE # 131, at 3.) The court found that the First Amendment right of access attaches to the government’s response, and accordingly, the government is required to show a compelling interest to justify sealing. (DE # 135, at 2.) The government did not meet its burden by simply relying on “‘matters of a sensitive and delicate nature.’” (Id. at 2-3.) Therefore, the court denied the government’s motion to seal.

Defendant requests the court reconsider this conclusion. Defendant “makes this request because he now has reason to believe that if” Rule 35(b)-related documents filed in this court are publicly accessible, “his life or safety may indeed be at risk.” (DE # 136, at 1.) Defendant

claims some persons who were incarcerated with him at the institution where the underlying events occurred have been transferred to his present place of incarceration and those inmates “are aware of what he did.” (Id.)

The court declines to revisit its earlier ruling. As defendant’s motion reveals, defendant’s assistance to the government is already known among some inmates (and apparently for some length of time). Sealing the subject documents now will not change what is already public knowledge.

Defendant’s motion for reconsideration is DENIED.

This 15 July 2019.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt  
Senior U.S. District Judge